

After reviewing the preliminary hearing record and considering the brief of the respondent, the Appeals Board finds as follows:

The Appeals Board will first address the issue of whether it has jurisdiction to review the Administrative Law Judge's preliminary findings in regard to average weekly wage and weekly temporary total disability rate.

First, the Appeals Board finds both of the issues raised by the claimant are part and parcel of a preliminary hearing finding that claimant is entitled to temporary total disability compensation. The preliminary hearing statute found at K.S.A. 1997 Supp. 44-534a gives the Administrative Law Judge authority to grant or deny temporary total disability compensation pending a full hearing on the claim. Second, the Appeals Board does not have jurisdiction to review an Administrative Law Judge's preliminary finding unless it is alleged the Administrative Law Judge exceeded his jurisdiction or one of the jurisdictional issues listed in the preliminary hearing statute is raised. See K.S.A. 1997 Supp. 44-551 and K.S.A. 1997 Supp. 44-534a.

The Appeals Board concludes claimant did not allege the Administrative Law Judge exceeded his jurisdiction, and none of the jurisdictional issues listed in the preliminary hearing statute were raised. Therefore, the Appeals Board finds, at this juncture of the proceedings, it does not have jurisdiction to review the issues raised by the claimant and her appeal should be dismissed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the claimant's appeal is dismissed, and the preliminary hearing Order of Administrative Law Judge John D. Clark dated May 20, 1998, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of July 1998.

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
Kirby A. Vernon, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director